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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/21/2008

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EXAMINER

MCPARTLIN, SARAH BURNHAM

ART UNIT

PAPER NUMBER

3636

MAIL DATE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/598,699	Applicant(s) LEFRANC, FRANCIS	
	Examiner SARAH B. MCPARTLIN	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,5 and 7-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,5 and 7-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 September 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/19/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information referred to in the information disclosure statements filed on 8/19/08 has been considered as to the merits.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-2, 4-5 and 7-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Luden et al. (US 2005/0171458 A1). With respect to claim 1, Luden discloses a vibratory warning device (Figure 4) intended to be fixed to a structural element, such as a seat of a vehicle, comprising: vibratory means (unlabeled), located within housing (70), adapted to create a mechanical vibration under the effect of a control signal (unlabeled) transmitted through wire (20), fixation means (66)(68)(74) adapted to make integral the vibratory means and a portion (72) of the structural element, wherein the fixation means (66)(68)(74) comprise a resilient element (66) and (68) (see paragraph [0027] for disclosure of resilience) defining a gap, defined as a passageway located between an resilient elements (66) and (68), provided with an

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opening adapted to receive the portion (72) of the structural, so as to ensure the fixation of the device by clamping of the resilient elements (66) and (68) on the portion (72) of the structural element, the vibratory means are disposed in a generally u-shaped casing (70)(64)(62) and the gap is located between a resilient portion of a wall of said casing forming the resilient element and the vibratory means which is located in portion (70) of the casing.

With respect to claim 2, the resilient element (66)(68) is shaped so as to have a housing (i.e. the concave portion) for the portion (72) of the structure element and the housing opens into the gap.

With respect to claim 4, a play compensation means (78) is disposed between the resilient element (66)(68) and the vibratory means.

With respect to claim 5, a play compensation means (78) is disposed between the resilient element (66)(68) and the portion (72) of the structural element.

With respect to claim 7, a support means (74) cooperates with the resilient element (66)(68) so as to limit or prevent the deformation of the latter in the direction of an enlargement of the gap.

With respect to claim 8, the support means (74) are removably fitted on the casing (70)(64)(62).

With respect to claim 9, the support means (74) apply a pressure on the resilient element (66)(68) in the direction of a narrowing of the gap.

With respect to claim 10, a play compensation means (78) is disposed between the resilient element (66)(68) and the support means (74).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Luden et al. (US 2005/0171458 A1) in view of Renchan (5,927,056). As disclosed above, Luden reveals all claimed elements with the exception of a play compensation means formed in a deformable material added to the resilient element or the support means.

Renchan discloses a deformable material (6) added to clamping surfaces.

It would have been obvious to add a deformable material between the clamping surfaces of the resilient member (66)(68) around support portion (72). Such a modification would help prevent excessive strain on the clamping portions by dampening a portion of the clamping force.

6. Claim 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hsiao (6,669,291) in view of Luden et al. (US 2005/0171458 A1). Hsiao discloses a vibratory warning device intended to be fixed to a structural element (40), such as a seat of a vehicle, comprising: vibratory means (30) adapted to create a mechanical vibration under the effect of a control signal, fixation means (10)(13)(20) adapted to

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make integral the vibratory means (30) and a portion (43) of the structural element (40), the fixation means comprises an element (20) defining a gap (24)(25) provided with an opening adapted to receive the portion (43) of the structural element so as to ensure the fixation of the device by clamping of the element on the portion (43) of the structural element (40). The seat (40) is a motor vehicle seat, given that it is disposed on wheels and intended to be powered by a seat occupant, and a wire grid frame comprises at least one wire (43), wherein the fixation means of at least one warning device is made integral with a portion of the wire. Hsiao further discloses a wire grid forming the back of the chair. A fixation means is used to mount a vibration device (30) to at least one wire (43) of the wire grid.

Hsiao discloses all claimed elements with the exception of an element that is resilient.

Luden discloses the need for resiliency of a vibration attachment element to create a broad bending resonance.

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to form the element (20) from resilient material as taught by Luden in order to provide a broad bending resonance and prevent breakage of the element (20).

Response to Amendment/Arguments

7. Applicant's amendment filed on August 19, 2008 has been considered in its entirety.

Applicant specifically argues that Luden does not disclose a vibratory means disposed in a generally u-shaped casing, wherein the gap is located between a resilient portion of a wall of said casing forming the resilient element and the vibratory means. As disclosed in Figure 4, Luden's vibratory means is located within housing (70). Housing (70) is part of a larger structural element which includes arms (62) and (64). The Examiner contends that elements (62)(64) and (70) constitute a u-shaped casing in which the vibratory means is disposed. Portions (66) and (68) are part of the casing walls and form the resilient element. There is a gap located between these resilient elements (66) and (68) and the vibratory means in housing (70) as is best depicted in Figure 4. This gap allows for the structural portion (72) be received within the casing and clamped in place. The Examiner contends that the Luden reference continues to read on the claimed invention. The new interpretation of the Luden reference provided above resulted from Applicant's amendment.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SARAH B. MCPARTLIN whose telephone number is (571)272-6854. The examiner can normally be reached on M-Th 7:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sarah B. McPartlin/
Examiner
Art Unit 3636

SBM
October 2, 2008